IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Bail Appl..No. 4421 of 2007()

CRIME NO.182/07 OF NEMOM POLICE STATION

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PETITIONER : ACCUSED:

SULFICKER, AGED 36 YEARS,
S/O. PEERU MUHAMMED, NATTUKALLILMOOTTIL VEEDU,
OLD KARAKKAMANDAPAM, NEMOM.

BY ADV. SRI.C.K.MOHANAN
SRI.STEPHEN F.ROZARIO

RESPONDENTS: COMPLAINANT:

SUB INSPECTOR OF POLICE, NEMOM POLICE
STATION, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4421 of 2007

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Dated this the 20th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the provisions of the Essential Commodities Act and the provisions of the Explosives Act r/w. Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order. The crux of the allegation is that the petitioner was indulging in the objectionable activity of transferring L.P.G. for domestic purposes to commercial purposes unauthorisedly. Investigation is in progress. The petitioner prays that anticipatory bail may be granted to him.

2. The learned Prosecutor opposes the application. The petitioner is already involved in an earlier similar crime and while on bail in that crime he has repeated this identical crime. There are no circumstances justifying the invocation of the discretion under Section 438 Cr.P.C. in favour of the petitioner, submits the Prosecutor.

3. I shall carefully avoid any detailed discussion on merits about the acceptability of the allegations raised or the credibility of

the data collected. Suffice it to say that on an anxious consideration of all the relevant inputs, I am satisfied that there is merit in the opposition raised by the learned Prosecutor. I am satisfied that this is not a fit case where the extra ordinary equitable discretion under Section 438 Cr.P.C. can or deserves to be invoked in favour of the petitioner. The petitioner must appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is hence dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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